

Application No. 10/028,338
Response dated June 23, 2005
Reply to Office Action of April 5, 2005

Remarks

Claims 1 – 23 are presented for Examiner Kidwell's consideration.

Claims 4 and 5 have been amended to correct antecedent basis.

New claim 23 has been added. Support for this claim may be found at least at original claim 1, page 14: lines 10-12 and page 19: lines 5-8.

No new matter has been added.

Pursuant to 37 C.F.R. § 1.116, reconsideration of the present application in view of the following remarks is respectfully requested.

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Response to Rejections

By way of the Office Action mailed April 5, 2005, claims 1 – 22 stand rejected under 35 U.S.C. § 103 as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over U.S. Patent Application 2003/0077307 to Klofta *et al.* (*Klofta*) in view of U.S. Patent Number 5,141,803 to Pregozen (*Pregozen*). This rejection is respectfully traversed to the extent that it may apply to Applicants' claims.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references must teach or suggest all the claim limitations. M.P.E.P. §§ 2142, 2143. A *prima facie* case of obviousness has not been established, regarding claim 1, because there is no suggestion or motivation to combine *Klofta* and *Pregozen*. This rejection should be withdrawn.

First, the Examiner states that it would have been obvious to "modify the wipe of *Klofta* to employ the skin care solution of *Pregozen* because the skin care solution of *Pregozen* delivers active skin care ingredients to cleanse the skin while reducing a slippery feel and protecting against contamination." The Examiner recites some of the purported benefits of *Pregozen* but fails to direct Applicants to any suggestion or motivation in *Klofta* or *Pregozen* to make the modification or combination. Therefore the Examiner has failed to establish a *prima facie* case of obviousness.

The teaching, suggestion, or motivation for the modification or combination and the reasonable expectation of success must both be found in the prior art and cannot be based on an applicant's disclosure. M.P.E.P. §§ 2142, 2143. Even the fact that the references *can* be modified or combined does not render the resultant modification or combination obvious unless the prior art teaches or suggest the desirability of the modification or combination. M.P.E.P. §§ 2142, 2143. Neither *Klofta* nor *Pregozen* teach or suggest the desirability of employing the skin care solution of *Pregozen* to the wipe of *Klofta*.

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Klofta does not teach or suggest the desirability of modifying the wipe referenced in *Klofta* to employ the skin care solution of *Pregozen* to "cleanse the skin while reducing a slippery feel and protect against contamination" as the Examiner suggests. *Klofta* has already presented a solution for cleansing and protecting the skin, specifically, use of the composition to which the *Klofta* application is directed.

The wipe of *Klofta* is merely one vehicle for delivering the composition of *Klofta* to the skin. There is no suggestion that one skilled in the art would be motivated to employ the skin care solution of *Pregozen* to the wipe of *Klofta* as that would render *Klofta* unsatisfactory for its intended purpose, i.e., delivering *Klofta's* skin care composition to the skin.

Furthermore, *Pregozen* does not teach or suggest the desirability of modifying the wipe referenced in *Klofta*. *Pregozen* addresses a very specific problem, namely, the slippery feel of a wipe that results from the inclusion of cationic biocides impregnated in a nonwoven web. The Examiner has failed to direct Applicants to any teaching or suggestion in *Pregozen* as to the desirability of combining the skin care solution of *Pregozen* with the wipe of *Klofta*. Merely reciting one or more of the purported benefits of *Pregozen* does not satisfy the burden of establishing a *prima facie* case of obviousness.

Second, the Examiner states that "*Klofta* discloses that the delivery vehicles of the application may be used in any combination on page 8, paragraph 86." Based on this, the Examiner concludes that, "one of ordinary skill in the art would have had the motivation to include the skin care compositions on the wipe disclosed by *Klofta*." Applicants respectfully disagree.

The Examiner appears to be arguing that because *Klofta* teaches a combination of delivery vehicles (i.e., tissues, wipes, sponges, cotton balls, pads, non-woven webs, patches, bandages, paper, fabrics, and the like) then it must follow that *Klofta* also provides motivation to change the composition. This is a non sequitur.

Klofta is directed to a skin care composition. The object of *Klofta* is to deliver a specific film forming composition to the skin (i.e., *Klofta's* composition). *Klofta* does not suggest using a different skin care composition.

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Claims 2 – 22 depend from claim 1 and are nonobvious over *Klofta* in view of *Pregozen* for at least the reasons stated above. Therefore, Applicants request that the rejection to these claims be withdrawn.

New claim 23 has been added. Claim 23 is novel and nonobvious over *Klofta* in view of *Pregozen* for at least the reasons stated above. Additionally, claim 23 is novel and nonobvious because the prior art references do not teach or suggest all the claim limitations.

The Examiner states that “*Klofta* discloses that the delivery vehicles of the application may be used in any combination” and references page 8, paragraph 86 of *Klofta*. However, *Klofta* does not teach or suggest a system comprising a skin care composition on an absorbent article having a superabsorbent material; a front waist section; a rear waist section; and an intermediate section that interconnects the front and the rear waist sections and a wet wipe with a skin care solution as required by Applicants' claim 23.

Klofta specifically states “Any combination of the above is also suitable for use herein as a delivery vehicle.” The word “above” references the list: “web materials or substrates such as tissues, wipes, sponges, cotton balls, pads, non-woven webs, patches, bandages, paper fabrics, and the like.” (Page 8: paragraph 86, emphasis added). This list does NOT include absorbent articles having a superabsorbent material; a front waist section; a rear waist section; and an intermediate section that interconnects the front and the rear waist sections as required by Applicants claim 23. Clearly a bandage does not meet the claimed limitations.

Pregozen provides no teaching or suggestion of a system comprising a skin care composition on an absorbent article and a wet wipe with a skin care solution as required by Applicants' claim 23. In view of M.P.E.P. § 2141.02, the claimed invention as a whole must be considered. Therefore, no *prima facie* case of obviousness has been established because the prior art references do not teach or suggest all of Applicants' claim limitations when properly viewed as a whole. Applicants submit that claim 23 is patentably distinct over *Klofta* and *Pregozen*, alone or in combination.

Furthermore, Applicants note again that claim 16 stands rejected, at least in part, in view of Koenig, which was disqualified as a reference under M.P.E.P. § 706.02(1)(1) in Applicants' response dated March 25, 2004. Applicants respectfully request that this rejection be withdrawn.

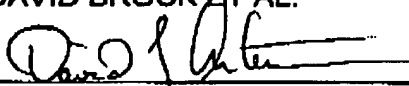
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Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc.
deposit account number 11-0875.

The undersigned may be reached at: (920) 721-3016.

Respectfully submitted,
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